

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

COMPLAINT NO. 98-501

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
QWEST COMMUNICATIONS CORPORATION
SHASTA COUNTY

This complaint is issued to Qwest Communications International (hereafter Discharger) based on a finding of violation of California Water Code Section 13376. Section 13385 authorizes the imposition of Administrative Civil Liability penalties for violation of Section 13376.

The Executive Officer finds, with respect to the Discharger's acts or failure to act, the following:

1. Qwest Communications Corporation, 555 17th Street, Denver CO, has been engaged in laying fiber optic cable along railroad right-of-ways throughout California and the western United States. The operation involves burying the cable approximately two feet below the surface with specially designed equipment. Stream crossings are accomplished by attaching the cable to bridge support pillars in the case of small streams or employing directional boring under larger streams and rivers. When railway tunnels are encountered the cable is placed in the drainage channel between the tracks and the tunnel wall. Before this operation can be accomplished, it is necessary to remove collected sediment from the channel.
2. At approximately 1330 hours on 15 March 1998 ,a complaint was received from Calaveras Cement Company in Mountain Gate approximately ten miles north of Redding. The complainant stated that sediment-contaminated water from a cleaning operation in a Union Pacific railway tunnel had been discharged to an intermittent drainage which conveys storm water runoff through their plant site. This ditch discharges to a concrete junction box on Calaveras property where it joins several other streams from within the plant. The combined stream discharges to an intermittent tributary of West Fork Stillwater Creek. The tributary joins Stillwater Creek approximately 1\4 mile to the south.
3. An inspection of the site by staff revealed that employees of Qwest Communications Company had been laying fiber optic cable along the railway right-of-way. In order to lay cable through the two mile long tunnel it was necessary to clean collected sediment from the channels adjacent to the track within. This had been accomplished by removing the collected material with a back hoe. This operation had caused the sediment to become suspended in the groundwater seepage entering the tunnel and discharging from the tunnel at a rate of approximately 15-20 gallons per minute. The contaminated discharge entered Stillwater Creek as described in paragraph 2 above.
4. Samples taken by staff during the inspections of 15 March 1998, revealed that the sediment discharged from the tunnel had significantly increased the turbidity and suspended solids level in Stillwater Creek for approximately five miles downstream.

5. Both California Water Code Section 13376 and Clean Water Code Section 301 prohibit the discharge of pollutants to surface waters except in compliance with an NPDES permit.
6. California Water Code Section 13385 states the following:

"(a) Any person who violates any of the following shall be liable civilly in accordance with subdivisions(b), (c), (d), (e), and (f):"

“(1) Section 13375 or 13376
(5) Any requirements of Sections 301, 302, 306, 307, 308, 318, or 405 of the Federal Pollution Control Act as amended.”

“(C) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:”

“(1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”
7. For the one day of discharge documented by staff, the maximum Administrative Civil Liability which can be imposed by the Regional Board under Water Code Section 13385 is ten thousand dollars (\$10,000). The total volume of contaminated wash discharged to Stillwater Creek was not possible to measure; therefore, a penalty of ten dollars (\$10) per gallon cannot be assessed.

QWEST COMMUNICATIONS INTERNATIONAL IS HEREBY GIVEN NOTICE THAT:

1. I am proposing that an Administrative Civil Liability be imposed in the amount of ten thousand dollars (\$10,000). In determining the amount of civil liability, I have taken into consideration the following factors: the nature, circumstance, extent, and the gravity of the violation or violations; whether the discharge is susceptible to cleanup or abatement; with respect to the violator, the ability to pay, the ability to remain in business; any voluntary cleanup efforts undertaken; prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations; and such other matters as justice may require (California Water Code Section 13385).
2. A hearing will be scheduled within 60 days unless the Discharger agrees to waive the hearing and pay the imposed civil liability in full.

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3. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive that right, please sign and return the waiver, along with a check made payable to the State Water Resources Control Board for the amount of civil liability to the Regional Board by **11 May 1998**.

GARY M. CARLTON, Executive Officer

22 April 1998

(Date)

WAIVER

You may waive the right to a hearing and pay the Administrative Civil Liability as proposed. Any waiver will not be effective until 30 days from the date of this complaint to allow interested persons an opportunity to comment on this action. If you wish to waive the hearing, an authorized person must check and sign the waiver and return the waiver to the Executive Officer **by 11 May 1998** along with a check made payable to the State Water Resources Control Board in the amount of civil liability.

I agree to waive my right to a hearing before the Regional Board and to remit ten thousand dollars (\$10,000) for the Civil Liability imposed.

Signature

Title

Date

JFR:tch